

**REMARKS**

**Summary of Rejections**

The Examiner rejected claims 1, 14, 15, 24, 26-33, 40, 42, and 44 under 35 U.S.C. §103(a) as unpatentable over European Patent Application EP 1 089 515 A2 to Morrow (Morrow) in view of U.S. Patent No. 6,421,321 B1 to Sakagawa et al. (Sakagawa) and U.S. Patent No. 5,583,996 to Tsuchiya (Tsuchiya); rejected claims 2, 6-8, 10-13, 18-22, and 35 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, and U.S. Patent No. 5,914,953 to Krause et al. (Krause); rejected claims 3 and 4 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya and U.S. Patent No. 6,678,735 B1 to Orton et al. (Orton); rejected claims 5 and 36 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, Krause, and Orton; rejected claims 9 and 34 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, Krause, and U.S. Patent No. 7,177,642 B2 to Sanchez Herrero et al. (Sanchez Herrero); rejected claim 16 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, Krause, Orton, and Sanchez Herrero; rejected claim 17 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, and U.S. Patent No. 6,501,767 B1 to Inoue et al. (Inoue); rejected claims 23 and 37-39 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, Krause, and U.S. Patent No. 6,115,361 to Fredericks et al. (Fredericks); rejected claims 25 and 41 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, and Fredericks; and rejected claim 43 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya and Sanchez Herrero.

Claims 1-44 are pending.

**Rejections under 35 U.S.C. §103**

The Examiner rejected claims 1, 14, 15, 24, 26-33, 40, 42, and 44 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa and Tsuchiya. Applicants respectfully traverse this rejection.

Claim 1 recites, among other things, the following feature: “setting a load control information in a predetermined field of a layer three or above message.”

In contrast, Morrow discloses a method of selecting a CSCF by the destination address of a data packet. The choice is CSCF is based on the destination address rather than load control information in a predetermined field. The Examiner acknowledges that the Morrow fails to disclose or suggest the above noted feature of claim 1. Office Action, page 5. To cure this deficiency, the Examiner relies on Tsuchiya.<sup>1</sup> Tsuchiya discloses a method for conveying shortcut information between packet routing nodes. The shortcut information contains a shortcut address which is included in a shortcut header. Specifically, Tsuchiya states:

Thus, the access point node Ra transmits the packet via the PDN 210 to the exit point node (the access point node Rd) which connects the stub containing the destination node with the PDN 210. Assume that the access point node Ra only stores a base path to the access point node Rd and that each access point node Ra, Rb, Rc and Rd operates according to the present invention. The access point node Ra generates a packet, such as the packet 110 shown in FIG. 9, which is useful for conveying shortcut information. The packet 110 has a PDN subnetwork header 111, a shortcut header 113, an internet header 112 and data 114. The data 114 and internet header 112 contain identical information as the corresponding data 93 (FIG. 4) and internet header 92 (FIG. 4) of the packet transmitted by the node S. The access point node Ra illustratively writes its PDN subnetwork address in the source PDN subnetwork address field 111-1 of the PDN subnetwork header 111. The shortcut header 113 has a shortcut address field 113-1. The access point node Ra also writes its PDN subnetwork address in the shortcut address field 113-1.

Tsuchiya, col. 11 lines 6-24. The Examiner alleges that the shortcut header, containing a shortcut address, corresponds to “setting a load control information in a predetermined field of a

---

<sup>1</sup> While the Examiner addressed Sakagawa first, Applicants address Tsuchiya first.

layer three or above message,” as recited in claim 1. Applicants disagree for at least the reasons given below.

Tsuchiya is completely silent with respect to load control information. The shortcut information of Tsuchiya merely indicates the shortest path between two nodes rather than load control information. For example, the shortest path between two points may contain a high load. Thus, Tsuchiya's choice of this path would be contrary to load control. For at least this reason, Tsuchiya fails to disclose or suggest at least the following feature of claim 1: “setting a load control information in a predetermined field of a layer three or above message.”

Moreover, the aforementioned shortcut header of Tsuchiya is appended to an internet protocol (IP) packet. Specifically, Tsuchiya states:

In each of the above examples, the shortcut address is written in a shortcut header "appended" to an ordinary internet packet. In other words, the access point node transmits a shortcut in a packet containing both data and shortcut information. This is advantageous because no additional packets are required for transmitting shortcut information. Rather, the shortcut information is "piggy-backed", i.e., transmitted with an existing packet.

Tsuchiya, col. 14 lines 60-67. Since Tsuchiya appends the shortcut header to an IP packet, there is no predetermined field in the IP packet for the shortcut header. Thus, the shortcut header clearly does not constitute a “predetermined field of a... message,” as recited in claim 1. For at least this additional reason, Tsuchiya fails to disclose or suggest at least the following feature of claim 1: “setting a load control information in a predetermined field of a layer three or above message.” While Sakagawa discloses a shortcut path message to establish a shortcut path, Sakagawa fails to cure the aforementioned deficiencies of Morrow and Tsuchiya. Therefore, claim 1 is allowable over Morrow, Sakagawa, and Tsuchiya and the rejection of claim 1 under 35 U.S.C. § 103(a) should be withdrawn.

Moreover, claim 1 recites, among other things, the following features: “checking said load control information on the routing path of said message,” and “selecting a processing resource of said packet data network in response to the result of said checking of said load control information, wherein said load control information is provided to at least one network element operating in said packet data network to terminate at least one network hop of said message.”

In contrast, Sakagawa discloses a shortcut path (SP) message to establish a shortcut path between two nodes in a packet network. A terminal of Sakagawa may send an SP message to request that the traffic be sent over a shortcut path. The Examiner alleges that sending an SP request message to a destination in Sakagawa corresponds to providing load control information to at least one network element. Applicants disagree for at least the reasons given below.

The shortcut path of Sakagawa is similar to the shortcut paths of Tsuchiya. Sakagawa's shortcut path does not constitute load control information. For at least this reason, Sakagawa fails to disclose or suggest the following feature of claim 1: “selecting a processing resource of said packet data network in response to the result of said checking of said load control information, wherein said load control information is provided to at least one network element operating in said packet data network to terminate at least one network hop of said message.”

Furthermore, the SP request message of Sakagawa does not convey load control information. The SP request messages of Sakagawa are merely requests by a terminal to use a shorter route. The SP requests sent by Sakagawa's terminal to use a shorter route do not convey load control information. For at least this additional reason, Sakagawa fails to disclose the following feature of claim 1: “selecting a processing resource of said packet data network in

response to the result of said checking of said load control information, wherein said load control information is provided to at least one network element operating in said packet data network to terminate at least one network hop of said message.”

While Tsuchiya discloses a shortcut header, Tsuchiya fails to cure the aforementioned deficiencies of Morrow and Sakagawa. Therefore, neither Morrow, Sakagawa, nor Tsuchiya discloses or suggests at least the following feature of claim 1: “selecting a processing resource of said packet data network in response to the result of said checking of said load control information, wherein said load control information is provided to at least one network element operating in said packet data network to terminate at least one network hop of said message.” Therefore, claim 1 is allowable over Morrow, Sakagawa, and Tsuchiya, whether these references are taken alone or in combination, and the rejection of claim 1 under 35 U.S.C. § 103(a) should be withdrawn for this additional reason.

Independent claims 26, 32, 40, and 44 include similar features as noted above with respect to claim 1. Claims 14, 15, and 24 depend from claim 1, and include all of the features recited therein. For at least the reasons noted above with respect to claim 1, independent claims 26, 32, 40, and 44 as well as claims 14, 15, 24, 27-31, 33, and 42, at least by reason of their dependency, are allowable over Morrow, Sakagawa and Tsuchiya, whether these references are taken individually or in combination, and the rejection of those claims under 35 U.S.C. §103(a) should be withdrawn.

The Examiner rejected claims 2, 6-8, 10-13, 18-22, and 35 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, and Krause. Applicants respectfully traverse this rejection.

Claims 2, 6-8, 10-13, and 18-22 depend from claim 1 recite all of the features therein.

While Krause discloses routing network messages using routing table information, Krause fails to cure the aforementioned deficiencies of Morrow, Sakagawa, and Tsuchiya. Claim 35, although of different scope includes some features similar to those noted above with respect to claim 1. For at least the reasons given with respect to claim 1, claims 2, 6-8, 10-13, 18-22, and 35 are allowable over Morrow, Sakagawa, Tsuchiya, and Krause, whether these references are taken individually or in combination, and the rejection of those claims under 35 U.S.C. §103(a) should be withdrawn.

The Examiner rejected claims 3 and 4 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya and Orton. Applicants respectfully traverse this rejection.

Claims 3 and 4 depend from claim 1. While Orton discloses a method for communicating using the session initiation protocol, Orton fails to cure the aforementioned deficiencies of Morrow, Sakagawa, and Tsuchiya. At least by reason of their dependency on claim 1, claims 3 and 4 are allowable over Morrow, Sakagawa, Tsuchiya, and Orton, whether these references are taken individually or in combination, and the rejection of those claims under 35 U.S.C. §103(a) should be withdrawn.

The Examiner rejected claims 5 and 36 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, Krause, and Orton. Applicants respectfully traverse this rejection.

Claim 5 depends from claim 1, and claim 36 depends from claim 32. For at least the reasons noted above with respect to claims 1 and 32, claims 5 and 36 are allowable over Morrow, Sakagawa, Tsuchiya, Krause and Orton, whether these references are taken individually or in combination, and the rejection of those claims under 35 U.S.C. §103(a) should be

withdrawn.

The Examiner rejected claims 9 and 34 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, Krause, and Sanchez Herrero. Applicants respectfully traverse this rejection.

Claim 9 depends from claim 1, and claim 34 depends from claim 32. While Sanchez Herrero discloses a method for supporting multiple registrations from the same user, Sanchez Herrero fails to cure the aforementioned deficiencies of Morrow, Sakagawa, Tsuchiya, and Krause. At least by reason of their dependency on claims 1 and 32, claims 9 and 34 are allowable over Morrow, Sakagawa, Tsuchiya, Krause and Sanchez Herrero, whether these references are taken individually or in combination, and the rejection of those claims under 35 U.S.C. §103(a) should be withdrawn.

The Examiner rejected claim 16 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, Krause, Orton, and Sanchez Herrero. Applicants respectfully traverse this rejection.

Claim 16 depends from claim 1. At least by reason of dependency on claim 1, claim 16 is allowable over Morrow, Sakagawa, Tsuchiya, Krause, Orton and Sanchez Herrero, whether these references are taken individually or in combination, and the rejection of that claim under 35 U.S.C. §103(a) should be withdrawn.

The Examiner rejected claim 17 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, and Inoue. Applicants respectfully traverse this rejection.

Claim 17 depends from claim 1. While Inoue discloses a method for handing over a mobile device to a different address space, Inoue fails to cure the aforementioned deficiencies of Sakagawa, and Tsuchiya. At least by reason of dependency on claim 1, claim 17 is allowable

over Morrow, Sakagawa, Tsuchiya, and Inoue, whether these references are taken individually or in combination, and the rejection of that claim under 35 U.S.C. §103(a) should be withdrawn.

The Examiner rejected claims 23 and 37-39 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, Krause, and Fredericks. Applicants respectfully traverse this rejection.

Claim 23 depends from claim 1, and claims 37-39 depend from claim 32. While Fredericks discloses a method for implementing a link level service in a computer network, Fredericks fails to cure the aforementioned deficiencies of Morrow, Sakagawa, Tsuchiya, and Krause. At least by reason of their dependency on claims 1 and 32, claims 23 and 37-39 are allowable over Morrow, Sakagawa, Tsuchiya, Krause and Fredericks, whether these references are taken individually or in combination, and the rejection of those claims under 35 U.S.C. §103(a) should be withdrawn.

The Examiner rejected claims 25 and 41 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya, and Fredericks. Applicants respectfully traverse this rejection.

Independent claims 25 and 41 include similar features as noted above with respect to claim 1. For at least these reasons given above, claims 25 and 41 are allowable over Morrow, Sakagawa, Tsuchiya, and Fredericks, whether these references are taken individually or in combination, and the rejection of those claims under 35 U.S.C. §103(a) should be withdrawn.

The Examiner rejected claim 43 under 35 U.S.C. §103(a) as unpatentable over Morrow in view of Sakagawa, Tsuchiya and Sanchez Herrero. Applicants respectfully traverse this rejection.

Independent claim 43 includes similar features as noted above with respect to claim 1.



For at least this reason, claim 43 is allowable over Morrow, Sakagawa, Tsuchiya, and Fredericks, whether these references are taken individually or in combination, and the rejection of claim 43 under 35 U.S.C. §103(a) should be withdrawn.

**CONCLUSION**

On the basis of the foregoing amendments, the pending claims are in condition for allowance. It is believed that all of the pending claims have been addressed in this paper. However, failure to address a specific rejection, issue or comment, does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above are not intended to be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intent to concede any issue with regard to any claim, except as specifically stated in this paper.

The Commissioner is hereby authorized to charge any additional claim fees and any additional fees that may be due, or credit any overpayment of same, to Deposit Account No. 50-0311, Reference No. 39700-590001US/NC16961US. If there are any questions regarding this reply, the Examiner is encouraged to contact the undersigned at the telephone number provided below.

Respectfully submitted,



Pedro F. Suarez  
Reg. No. 45,895

Date: September 23, 2009

Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, P.C.  
3580 Carmel Mountain Road, Suite 300  
San Diego, CA 92130  
**Customer No. 64046**  
Tel.: 858/314-1559  
Fax: 858/314-1501